

A special meeting of the Town Assembly of the Village of Arden was held on November 14, 1983, to consider the report of the Meadow Lane Access Committee. Chairman William Press presided.

In Attendance were:

Virginia Skiles	June Kleban	Susan Rohrbach
Beatrice Jaffe	Patty Jordan	Cecil Liberman
Katherine Kelly (NV)	Jim Ostendorp	Pat Liberman
Ruth Dolmetsch	Beverly A. Barnett	Amy Potter Cook
Sarah Hamburger	Mary Trench	Temma B. Tanzer
Elizabeth Varley Walker	Stephen Cleary	Leon Tanzer
Aaron Hamburger	Tim Colgan (NV)	Jean K. Brachman
David Warner	Lee Starr	Virginia E. Shaw
Eugene Shaw	Cecelia Vore	Ruth Panella
Paul Thompson	Michael K. Curtis	Rae Gerstine
E.T. Hurlong	Connee L. McKinney	Bernard Brachman
Joan W. Colgan	Larry Walker	Patricia Press
Thomas E. Colgan	John Gray	William Press
Hugh Roberts	Yvonne King	Frank Akutowicz
Marjorie Roberts	Helen Macklem	Bea Phillips

Motion passed by the September Town Assembly mandating this meeting was read by the Secretary: Moved that the Chairman of Town Assembly appoint a committee composed of Arden residents to study the legal, financial and physical aspects of the Meadow Lane Access problem, to negotiate with the owner and then to present a plan to Town Assembly for consideration. This committee should report to a Special Town Assembly to be held within 60 days of this meeting. Notices will be mailed to all residents.

Copies of the Committee report were distributed and are on file.

Questions:

Why does the committee anticipate a potential lawsuit if access is not granted? It is possible that the property owners could take the town to court for acting capriciously if they do not grant access or alternatively the property owners could install a curb cut without permission and the Village would have to take legal action to undo this.

How does the \$500 fee relate to the single tax? The figure is not based on single tax, the lots are outside of Arden and therefore are not subject to single tax. The figure was arrived at as reasonable compensation for services to be provided by the Town.

Why are the property owners not required to abide by Arden ordinances? When the owners are in Arden they are automatically governed by the ordinances. When they are outside of the village, the ordinances would be difficult to enforce since the owners are not Arden residents. Owners would of course be governed by all New Castle County ordinances which should provide sufficient protection.

What would be our course of action if the deed restrictions are violated? If the owners violate the deed restrictions, the

Village would have to take court action because the access permission would then become null and void. A deed restriction is a much stronger legal tool than County zoning restrictions. If violated, the owners would not be able to get a mortgage or title insurance.

Would this action set a precedent for land development behind Sherwood Forest? Mr. Rosenthal said that only owners of land abutting a public road could apply for access. Other lands are protected by the woods.

Why should the Trustees sign the deed restriction since the roads are owned by the townspeople? The Trustees' signature makes the deed restriction tighter. It provides Arden extra protection.

Who pays for the sewer connection and where will it be? Sewers will be connected on Meadow Lane at the property owner's expense. Woody Vandever will supervise the road restoration.

What if lots 4 & 5 create an access to Meadow Lane? This would be a severe violation of the deed restriction.

Why didn't the committee get a second legal opinion? The committee had no budget for this and felt a second opinion was unnecessary. They felt Mr. Rosenthal's opinion was a sensible one.

Can the lot owners change the lot arrangement? The plot division is filed with the County. If this is changed, the agreement would be null and void.

Motion on Meadow Lane Access for Lots 3 & 6 of the Kelly Minor Subdivision moved by Aaron Hamburger, seconded by Edmund Hurlong. See motion attached.

It was moved and seconded that the motion on the floor be tabled to allow introduction of a motion that the issue be discussed in executive session attended only by registered voters. Motion defeated.

Copies of a letter from Harold Monfort pertaining to the motion were made available. Mr. Monfort was unable to attend the meeting. The information in this letter was previously made available to the committee and formed a part of their deliberation.

Discussion:

Con:

Deed restrictions have not been found effective in restricting development, especially since we are deliberately acting to prevent intensive land development. The restriction is really no protection unless the Village takes legal action if the restriction is violated. In time we will forget all about it.

It would not be arbitrary and capricious to deny access since Arden is a planned community with defined open land. The safety and well being of the residents is a good reason to protect ourselves against a subdivision on our border.

The land should become part of the Deed of Trust.

Pro:

The committee has produced a good, thorough report. The proposal will protect Arden against intensive development on its border. The lots are now zoned for 6,500 square feet per house while Arden is zoned for 10,000 square feet. If we do not impose the deed restriction we risk having a more intensive development on our border.

We should be good neighbors. Anyone is allowed to drive on Arden roads.

We are not in danger of forgetting the restriction since the owners will be billed for services yearly.

Beverly Barnett moved to amend the motion on the floor. Moved that the town authorize the Special Committee to spend up to \$300 to review their proposal with a specialist in real estate law.

This amendment was not accepted by Aaron Hamburger, the mover, nor by Edmund Hurlong, the seconder. They explained that the committee negotiations with the property owner were based on the understanding that the matter be resolved tonight.

Motion on Meadow Lane Access for Lots 3 & 6 of the Kelly Minor Subdivision was voted by paper ballot.

Motion passed: 25 aye, 16 nay.

Sarah Hamburger,
Secretary

Motion on Meadow Lane Access for Lots 3 & 6 of The Kelly Minor Subdivision.

Moved that the Town Assembly of Arden authorize the Chairman and the Secretary of the Town Assembly to sign an agreement granting right of access to Meadow Lane for Lots 3 and 6 of the Kelly Minor Subdivision provided that the agreement is also signed by the Arden Trustees and the agreement is reviewed and approved by the Village of Arden's attorney. The proposed agreement must include the following provisions:

1. Curb cut for lot 3 and curb cut for lot 6 limited to a driveway to service a single family dwelling on each lot.
2. Construction and maintenance of driveways to be at lot owner's expense.
3. Owner shall pay for asphalt or concrete apron connecting edge of existing pavement to owner's boundary with Meadow Lane, installed according to width, design and construction, approved by the Village of Arden Civic Committee. Maintenance thereafter shall be part of the Village budget for road repair.
4. \$500 payment for right to curb cut for each lot (total payment \$1000).
5. Cost of preparing the required legal documents to be signed by the Village of Arden and the Trustees of Arden shall be at lot owner's expense.
6. The following shall be entered on the deeds for Lots 3 and 6 as deed restrictions:
 - a. Use of driveway and Meadow Lane access shall be limited to this one lot.
 - b. Owner to maintain all unpaved ground between Meadow Lane pavement and lot line.
 - c. Owner to pay an annual Access Rent due March 25, based on a pro-rated share of the Village of Arden's budget for:
 - Road repair and maintenance including snow removal.
 - Garbage and trash removal.
 - Special clean-ups.
 - Safety Committee expenses for road signs and enforcement of road regulations and Village ordinances.

The Annual Access Rent for each lot will be based on a factor of .00515 which is derived from a proration of the number of Village of Arden leaseholds plus Lots 3 and 6. The .00515 factor multiplied by the Village of Arden's budget expenses for the four listed categories will be the Annual Access Rent for each lot.

The first payment of an Access Rent will be pro-rated to the following March 25 and shall be paid within 30 days of first use of access. Thereafter, Annual Access Rent shall be paid on or before March 25 for the ensuing year.